

REMARKS

In the Final Office Action¹, the Examiner rejected claim 57 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,671,412 to Christiano (“Christiano”); rejected claims 1-11 and 15-17 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,768,382 to Schneier et al. (“Schneier”) in view of *Christiano*; and rejected claims 18-22 under 35 U.S.C. § 103(a) as unpatentable over *Schneier*, in view of *Christiano*, and further in view of U.S. Patent No. 5,590,288 to Castor et al. (“Castor”).

Claims 1-11, 15-22, and 57 remain pending and under current examination. Applicants respectfully request reconsideration of this application in light of the following remarks.

Applicants respectfully traverse the rejection of claim 57 under 35 U.S.C. § 102(b) as anticipated by *Christiano*. In order to properly establish that *Christiano* anticipates Applicants’ claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Claim 57 recites a data processing method including, for example:

determining at least one of a purchase mode...
creating log data...
creating usage control status data in accordance with the determined purchase mode; said usage control status data comprising a content identification for said content data, the purchase mode, an identification for a tamper-resistant circuit module, and a user identification for a user who has purchased said content data;

(emphasis added). *Christiano* does not disclose each and every element of Applicants' claimed invention.

Christiano teaches a software license management system 10 including client computer systems 12 and a license server 16 (col. 6, lines 5-20 and Fig. 1). However, *Christiano* does not teach "creating usage control status data in accordance with...an identification for a tamper-resistant circuit module", as recited in claim 57. Furthermore, in the rejection of claim 57 (Office Action at pages 4-5), the Examiner did not discuss the claimed "identification for a tamper-resistant circuit module", and did not cite any teaching in *Christiano* to show that this limitation is present in *Christiano*.

Accordingly, *Christiano* cannot anticipate claim 57, and claim 57 is allowable for at least these reasons.

Applicants respectfully traverse the rejection of claims 1-11 and 15-17 under 35 U.S.C. § 103(a). The prior art cited by the Examiner, *Schneier* and *Christiano*, even if combined as suggested by the Examiner, does not teach or suggest each and every element of claims 1-11 and 15-17. A *prima facie* case of obviousness has, therefore, not been established.

Claim 1 recites a data processing apparatus comprising within a tamper-resistant circuit module, for example:

an arithmetic processing circuit...
wherein said arithmetic processing circuit determines at least one of a purchase mode and a usage mode of the content data based on a handling policy indicated by the usage control policy data, and creates log data indicating a result of the determined mode; and the arithmetic processing circuit creates usage control status data in accordance with the determined purchase mode, and controls the use of the content data based on the usage control status data;

(emphasis added). The Examiner admits that *Schneier* does not disclose determining a mode based on a handling policy and creating log data, creating usage control status data, or controlling the use of the content data. The Examiner cites *Christiano* to teach the claimed arithmetic processing circuit (Office Action at page 6). Applicants respectfully disagree.

Christiano teaches a license server 16 that stores licenses for software programs and makes those licenses available to the computer systems 12 when the computer systems 12 request the license (col. 6, lines 34-37). Once a license request is received by the license server 16, the request is processed by checking the status of the license, the requester, and the license policy (col. 10, lines 53-57). Additionally, the license server logs all information in a file or database (col. 18, lines 53-55). However, any purchase mode, usage mode, or log data that may exist in *Christiano* exists in the licenser server.

Fig. 1 and 2a show the license server 16 and the client 12 as separate systems that are interconnected by network connections 14. The processing, which occurs in the license server 16 does not occur in the computer system 12. In contrast, claim 1

requires a data processing apparatus comprised “within a tamper-resistant circuit module.” There is no teaching, in *Christiano*, that the license server 16 is a tamper-resistant circuit module, and one of ordinary skill would recognize that the server 16 is separate from the computer system 12.

Even assuming that *Christiano* teaches the claimed purchase mode, usage mode, and log data, *Christiano* cannot be combined with *Schneier* because of inconsistencies in the references. The license server 16 of *Christiano* processes any purchase mode, usage mode, and log data that may exist. In contrast, *Schneier* teaches that the circuit and corresponding processing occur within a computer device (Office Action at pages 5-6, col. 3, lines 66-67, and Fig. 4C-F). Therefore, the processing of *Christiano* cannot occur in the circuit of *Schneier* because all processing information of *Christiano* is contained in a separate, distinct server that is accessed by a network connection. One of ordinary skill would not combine processing in a server with processing in a circuit because the server cannot be contained within the computer system 12 of *Christiano*, or within the circuit module of *Schneier*.

Furthermore, *Schneier* does not teach a circuit that contains such processing (Office Action at page 6). Even assuming, absent any teaching in *Schneier*, that the circuit could process the purchase mode and usage mode, the teaching of *Christiano* cannot be relied on to modify *Schneier* because the processing in *Christiano* cannot occur within the computer system 12, and therefore could not occur within any circuit that may be present in *Schneier*.

PATENT
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Accordingly, *Schneier* and *Christiano* fail to establish a *prima facie* case of obviousness with respect to claim 1, at least because the references fail to teach each and every element of the claim. Claims 2-11 and 15-16 depend from claim 1 and are thus also allowable for at least the same reasons as claim 1.

Independent claim 17, though of different scope from claim 1, recites limitations similar to those set forth above with respect to claim 1. Claim 17 is therefore allowable for at least the reasons presented above.

Although the Examiner cites *Castor* in the rejection of dependent claims 18-22, Applicants respectfully assert that *Castor* fails to cure the deficiencies of *Schneier* and *Christiano* discussed above. Therefore, claims 18-22 are also allowable at least due to their dependence from claim 17.

In view of the foregoing remarks, Applicants respectfully request reconsideration of the application and withdrawal of the rejection. Pending claims 1-11, 15-22, and 57 are in condition for allowance, and Applicants request a favorable action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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